

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**ADRIENNE S. VANCE and
HOLLIS VANCE, her husband,
Plaintiffs,**

vs.

**Civil Action No. 2:07CV101
District Judge Robert E. Maxwell**

**WAL-MART STORES EAST, LP,
an Arkansas Corp.,**

Defendant.

ORDER/OPINION

On June 27, 2008, Defendant filed its Motion to Compel [Docket Entry 17]. Plaintiffs filed their response thereto on July 14, 2008 [Docket Entry 18]. On July 17, 2008, Plaintiffs' counsel filed a Motion to Withdraw as Counsel [Docket Entry 22]. Defendant responded to Plaintiffs' counsel's Motion to Withdraw on August 1, 2008 [Docket Entry 23]. Defendant's Motion to Compel and Plaintiffs' counsel's Motion to Withdraw were referred to the undersigned by order of the District Judge, dated August 14, 2008 [Docket Entry 24]. The Court scheduled a hearing on the matters for Tuesday, August 19, 2008.

On Tuesday, August 19, 2008, Plaintiffs, Adrienne S. Vance and Hollis Vance appeared in person and through counsel, Stacey Jacques, and Defendant, Wal-Mart Stores East, LP, appeared through its counsel, Heather M. Noel, for hearing on the matters.

For reasons apparent to the Court and stated on the record during an en camera proceeding within the hearing, the Court finds there is good cause for Plaintiff's counsel to withdraw and therefore **GRANTS** Plaintiffs' Motion to Withdraw as Counsel. Plaintiff's counsel is relieved effective ten (10) days from this date, to wit: August 29, 2008.

Regarding the pending, outstanding discovery, the Court **GRANTS** Defendants' Motion to Compel. The Court directs that within the next ten (10) days, current counsel for Plaintiffs shall deliver such information responsive to the outstanding discovery requests as is available, supplementing according to the rules up until the ten (10) day deadline. To the extent that there is information that comes into current counsel's hands thereafter, they may turn that information over to Plaintiffs or such substitute counsel as Plaintiffs may obtain, and that subsequent Plaintiffs or their substitute counsel shall have the duty under the rules to promptly supplement the responses.

The Court then addressed the Plaintiffs regarding the possibility of their obtaining new counsel. The Court advised Plaintiffs to consult with their prospective new counsel (Frank Bush the current prosecuting attorney for Randolph County, West Virginia) regarding whether he had the ability to begin work on their civil litigation and whether he could make an immediate appearance in this matter. The Court then directed Plaintiffs within thirty (30) days, to either have new counsel file a Notice of Appearance or within that same time frame to notify the Court why they are unable to do so.

The Court then discussed the current scheduling order finding that the discovery and pre-trial motions schedule needed to be amended and re-set due to Plaintiffs' change of counsel. Upon consideration of all which, the Court amends the scheduling order as follows:

The party with the burden of proof shall have until **September 30, 2008**, to disclose experts. The party without the burden of proof shall have until **October 15, 2008**, to disclose experts. Dispositive motions shall be due **October 30, 2008**. Responses to dispositive motions are due by **November 20, 2008**. Replies are due by **November 30, 2008**. Final witness list are due on **December 22, 2008**, and objections thereto are due by **December 31, 2008**. Jury instructions, voir dire, and verdict forms are due by **January 20, 2009**, and objections thereto are due on **January 30, 2009**. Jury selection and trial currently remain as scheduled for **February 10, 2009**.

The Court is mindful of Plaintiff's current lack of counsel. The Court is also mindful of Defendant's need for continuing discovery and therefore will consider further amendments to the scheduling order as needed.

It is so **ORDERED**.

The United States Clerk for the Northern District of West Virginia is directed to provide a copy of this order to counsel of record and to Plaintiffs.

DATED: August 19, 2008

John S. Kaul

JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE